

Remarks

Claims 1-40 remain in the application.

This amendment is in response to the non-final rejection dated March 9, 2004. It is not in response to the final rejection dated March 29, 2004. This response is made within the three-month period specified in the non-final rejection, which has not been canceled. According to MPEP §710.04, when two periods for response are running, both periods must be observed and neither period controls the other. Accordingly, the above amendments are made as a matter of right under 37 CFR 1.111.

The Examiner continues to reject claim 1-6, 9-12, and 15-18 under 35 U.S.C. §102(e) as being anticipated by Bahl (U.S. Patent 6,072,160). This rejection is traversed. As previously argued, Bahl fails to disclose the claimed monolithic member or monolithic lamphead having a plurality of reflector cavities formed therein.

For the monolithic member, the Examiner references Bahl's radiant energy assembly 38. The Examiner further states that the term "monolith" just means a massive structure, citing Webster's Tenth Edition Collegiate Dictionary, p. 753. The Examiner's interpretation of monolithic member is erroneous both as a matter of law and of common English usage.

As a matter of law, "a patentee is free to be his own lexicographer." *Markman v. Westview Instruments, Inc.*, 334 USPQ2d 1321, 1330 (Fed. Cir. 1995). "A patentee can choose his own terms and use them as he wishes so long as he remains consistent in their use and makes their meaning reasonably clear." *Ellipse Corp. v. Ford Motor Co.*, 171 USPQ 513, 515, (7th Cir. 1971). Furthermore, "claims are to be construed in light of the specifications and both are to be read with a view of ascertaining the invention." *United States v. Adams*, 178 USPQ 479, 482 (S. Ct. 1966).

The present specification consistently refers to a monolithic lamphead-reflector 202 having a plurality of reflector cavities formed therein (p. 9, ll. 17-19). FIGS. 1 and 2 show the lamphead-reflector 202 to be a single body without seams and other attachment of parts. There is

no description of forming the monolithic lamphead-reflector 202 from multiple bodies. Instead, applicant states that the “reflector cavities ... can simply be machined into a one-piece block of copper or aluminum.” (p. 11, 25-27). There is not description or inference that the lamphead-reflector 202 is massive. Indeed, the prior art shows lamphead-reflectors of the same general size as that of the invention. Applicant intends monolithic to mean a one-piece body or member not joined together of multiple pieces. Applicant does not intend monolithic to mean massive.

The Examiner relies upon the extrinsic evidence of dictionary definitions for the meaning of “monolithic.”

“Because words often have multiple dictionary definitions, some having no relation to the claimed invention, the intrinsic record must always be consulted to identify which of the different possible dictionary means of the claim terms in issues is most consistent with the use of the words by the inventor.” *Dow Chem. Co. v. Sumitomo Chem. Co.*, 45 USPQ 2d, 1429, 1433 (Fed. Cir. 1998)

The Webster Collegiate Dictionary is already of record. Monolith and monolithic are both derived from the two Greek words *monos* and *lithos*, meaning “one” and “stone” respectively. The noun “monolith”, which is not being used by Applicants, is defined either as “a single great stone often in the form of an obelisk or column” or “a massive structure.” Neither meaning is the one intended by the Applicant, as is clear from the written description of the invention. The adjective “monolithic”, which is being used by Applicants, has several meanings. Meaning (1a) refers back to the noun, so it is not relevant to the invention. Meaning (1b) refers to single crystals and silicon chips, again not relevant to the invention. The variations of the second meanings (2a) and (2b) are, however, relevant and close to what was intended by Applicant. That is, “single piece,” or “formed or composed of material without joints or seams.” These two latter definitions are consistent with the monolithic lamphead/reflector 202 described and illustrated by Applicant. Indeed, definition (2a) is very close to Applicant’s phraseology of “one-piece” at page 11, line 26.

It is also pointed out that claims 1 and 7 use “monolithic” to modify “member.” The ordinary mechanic would not interpret Bahl’s radiant energy assembly 38 to be a member,

particularly as that term is defined in the same dictionary as “a constituent part of a whole.”

In contrast to the claimed monolithic member or lamphead, each of Bahl's reflector cavities, as illustrated in FIGS. 1 and 2, is formed by a respective specular reflector 159 formed as a sleeve disposed within a respective light pipe 41 or forming part of the light pipe 41 (col. 8, 36-38) held between upper and lower chamber walls 42, 43 (col. 5, ll. 19-22). No single member of Bahl is formed into multiple reflector cavities, as claimed. Accordingly, Bahl does not anticipate claim 1, 9, 13, and 15 as properly interpreted.

Yet further, it is not seen why Bahl's radiant energy assembly can be characterized as a massive structure, as required by the Examiner's rejection. The ordinary mechanic would interpret Bahl's assembly as being of normal size for its use, neither massive nor tiny.

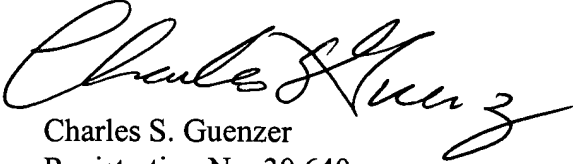
New dependent claims have been added with the definition of monolithic supported in the filed specification at page 11, line 26 and also requiring the machining of multiple reflector cavities into the one piece supported in the same passage. In so far as Bahl forms multiple reflector cavities, he forms and possibly machines the plural cavities into multiple respective aluminum pieces.

The Examiner has allowed Claims 7, 8, 13, 14, and 19-31. However, since the Examiner has previously accorded no patentable weight to the monolithic restriction, this term has been removed from the allowed claims by amendments to base claims 7, 13, and 19 as well as conforming amendments in the dependent claims. The amended claims thus avoid the restricted meaning of this monolithic restriction argued above for the rejected claims. However, the monolithic restriction is reintroduced in new dependent claims 38-40. The title of claim 7 and its dependent claims has been changed only to avoid confusion with the included element of lamphead amended into those claims and the title change does not affect the breadth of the claims.

In view of the above amendments and remarks, reconsideration and allowance of all claims are respectfully requested. If the Examiner believes that a telephone interview would be helpful, he is invited to contact the undersigned attorney at the listed telephone number, which is on California time.

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